

## ITEMS IN OHIO (AND MOST LIKELY ELSEWHERE) THAT THE PCEA COULD INVESTIGATE FOR PURPOSES OF ELECTION IMPROVEMENT

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The Northeast Ohio Voter Advocates, a 501c3 organization, has carried out research on Ohio's elections for many years (see reports at [www.NOVA-Ohio.org](http://www.NOVA-Ohio.org)). The resulting data and suggestions have been used in policy development, public information and law suits to produce positive change. The following items for your consideration are distilled from this and other research, where the issues conform to your stated mandate. In order to meet your deadline, the following is a brief outline that can be expanded with more complete data, if requested.

**1.PCEA mandate: (viii) management of issuing and processing provisional ballots in the polling place on Election Day.** Ohio consistently experiences a large number of provisional ballots (about 200,000 in the last 2 Presidential elections). Most of these provisional ballots are believed due to voters not having updated their address change. Although most are accepted, the handling and counting of provisional ballots involves delays in determining the outcome of close elections, expense and staff time for processing, and frequent instances of minor voter error leading to disqualification. Improvement in updating registrations of public assistance clients could decrease the numbers of provisional ballots cast.

Census studies show that low income voters move far more often than upper income voters. Therefore, in order to reduce provisional ballots, more effective efforts to encourage updating of addresses should target this sector (see also item 2). Unfortunately, the number of registrations obtained through Ohio Jobs and Family Service, as mandated by the NVRA Act Section 7, has recently fallen by about 50%, going from a median monthly number of registrations of 16,251 (Jan 2010 through Oct 2012) to a median of 7,675 (Nov 2012 through April 2013). On an annual basis, this projects to going from 195,000 to 92,000 registrations, or a decrease of over 100,000 registrations per year, many of which would be changes of address. Pending further investigation, this decline may well be due in large part to the agency going from in-person to on-line applications. Thus, there is an urgent need to develop more effective means to register low-income voters on public assistance who are now applying for benefits on line. Means to do this are under discussion, and suggestions will be made by the time the PCEA holds its field hearing in Ohio. With the advent of the Affordable Care Act, many voters across the nation, using on-line applications, will present a similar problem with respect to voter address update, and provisional ballot usage.

**2. PCEA mandate: (iv) the efficient management of voter rolls and poll books. Need for use of public assistance agency data to measure success of registration and to update changes of address by matching with BOE voter registration lists.**

Several states (including Ohio) have increased voter registration as a result of legal enforcement of NVRA requirements for public assistance agencies to offer voter registration and address updates (see EAC report from 2010; also see report of recent decrease in item 1 above). The problem is that there is no absolute standard to determine how successful this effort is in terms of the percentage of Agency clients registered and the percentage of those who have moved and not updated addresses. The

answer to the first part, voter registration, would determine whether there is still much more effort required to register all those who are eligible and might want to do so. The answer to the second part – how many are registered at an old address – could be used to notify and encourage clients to update their voter registration address without the specter of being placed on a “to-be-purged” list per NVRA. As noted above, low-income people are far more likely to move and be in need of change-of-address to avoid provisional ballot use and/or rejection. Both goals could be accomplished if BOEs and public assistance agencies were required to match their lists periodically and communicate with clients accordingly.

**3. PCEA mandates: (ii) the training, recruitment, and number of poll workers; (viii) management of issuing and processing provisional ballots in the polling place on Election Day. Unnecessarily large numbers of provisional ballots rejected because of inadequate poll worker training or inadequate processing of provisional ballots.**

In Ohio, the two major reasons for rejecting provisional ballots in all General Elections – voting at the wrong polling location (about 9,500 in the 2012 General Election), or not being found on the database of registered votes (about 20,000 in 2012) – urgently require research and remedy. It is inconceivable that 9500 people would insist on voting at the wrong location IF the poll worker told them their provisional ballot would not count and directed them to the proper location. In previous presidential elections, such rejected ballots were highest in African-American neighborhoods (our research in Cuyahoga County). This problem requires improved poll worker training re: instructions to voters, and accountability, such as a check list filled out by the poll worker.

By the same token, the possible reasons why 20,000 people would be “not registered” and yet try to vote also clearly calls for research – whether voters didn’t know that their registrations were invalid or entered incorrectly or were incomplete, whether matching protocols used to find voters on the data base were inadequate and created false negative matching, whether voters were previously purged rightfully or wrongfully and weren’t aware of it, etc. Unfortunately, in Ohio, individual voter data on rejected provisional ballots are no longer available to the public, so that the research needs to be done by the current Secretary of State, and appropriate legislation recommended on the basis of this research. A number of remedies for these problems were suggested in the Brennan Center Summary of the non-partisan 2008-2009 Ohio Conference and Summit\* but none have been implemented.

\* <http://www.brennancenter.org/publication/2008-2009-ohio-elections-summit-and-conference>

**4. PCEA mandate: (i) the number, location, management, operation, and design of polling places. Election rules which selectively impair early in-person voting in urban counties.**

As a result of legal action, in-person absentee voting was employed in Ohio in the last 3 days before election day in 2012. However, there still needs to be rules which recognize and provide time and personnel to deal with the huge disparity in waiting times to vote in person during early “absentee” voting between large urban and small rural counties. From data compiled and reported by our group\*,

it can be calculated that about 30,000 voters in large counties waited 1-4 hours in 2012 vs. less than 30 minutes for voters in smaller counties. In at least two of these counties, in 2008, the in-person early voters affected were disproportionately low-income and African American (see reports at [www.nova-ohio.org](http://www.nova-ohio.org)). \* <http://www.nova-ohio.org/analysis%20early-absentee%20voting%202012%20vers10%201-19-13.pdf>. More election personnel and more optional hours might provide solutions.

**5. PCEA mandate: (ix) the issues presented by the administration of absentee ballot programs. Election rules which impair successful absentee voting by mail in certain counties for the sake of “uniformity”, but have little effect in counties where voting by mail is sparse.**

The Ohio legislature has banned Boards of Elections from sending out applications for vote by mail to all registered voters: voters can obtain absentee ballots only by individually initiated formal requests. Since the ban was instituted, many larger counties which had previously sent applications to all voters witnessed about a 10% drop in absentee ballots cast (although some tried to inform voters of the new rules). This ruling disproportionately affected those larger counties where large numbers of voters used these applications and voted by mail before the ban took effect in 2011. Although the Secretary of State eventually sent applications for absentee ballots to all voters prior to the 2012 General Election, it is unclear whether this procedure will be repeated in future elections (especially non-Presidential). Also, it was found that in many counties, there was very little response to such mailed applications, whereas in others (e.g. Cuyahoga County where about 35% of absentee ballots in 2012 were cast by mail) the response was enormous\*. A solution that reflects these local variations needs to be instituted.

\* <http://www.nova-ohio.org/analysis%20early-absentee%20voting%202012%20vers10%201-19-13.pdf>

**6.PCEA mandate: (viii) management of issuing and processing provisional ballots in the polling place on Election Day. Prosecutory investigation of at least 129 voters from Hamilton and Franklin counties, who followed perfectly legal procedures on use of provisional ballots.**

In the 2012 general election, 129 individuals voted early absentee and then, for a variety of reasons (e.g. uncertainty whether their mailed ballot had enough postage), legally chose to vote a provisional ballot, often with the approval and/or instruction of poll workers. The best presentation of this unnecessary problem, which harasses legitimate voters, is supplied in an open letter from the League of Women Voters of Ohio, available at:

[http://www.lwvohio.org/assets/attachments/file/SOS%20BOE%20Letter%20on%20Refer%20to%20Prosecutors\\_final%20clean\(2\)%20full%20letter.pdf](http://www.lwvohio.org/assets/attachments/file/SOS%20BOE%20Letter%20on%20Refer%20to%20Prosecutors_final%20clean(2)%20full%20letter.pdf)